

LEGISLATURE OF NEBRASKA  
NINETY-NINTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 399**

Introduced by Baker, 44

Read first time January 12, 2005

Committee: Revenue

A BILL

1 FOR AN ACT relating to revenue and taxation; to amend sections  
2 77-2001, 77-2002, 77-2101.01, and 77-2101.02, Reissue  
3 Revised Statutes of Nebraska; to terminate inheritance,  
4 estate, and generation-skipping taxes; to harmonize  
5 provisions; and to repeal the original sections.  
6 Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 77-2001, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           77-2001. ~~All~~ Until January 1, 2007, all property,  
4 including proceeds of life insurance receivable by the executor or  
5 administrator to the extent of the amount receivable by the  
6 executor or administrator as insurance under policies upon the life  
7 of the decedent, which shall pass by will or by the intestate laws  
8 of this state from any person who, at the time of death was a  
9 resident of this state, or, if the decedent was not a resident, any  
10 part of the property within this state, except property exempted by  
11 the provisions of Chapter 77, article 20, shall be subject to tax  
12 at the rates prescribed by sections 77-2004 to 77-2006.

13           Sec. 2. Section 77-2002, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15           77-2002. (1) ~~Any~~ Until January 1, 2007, any interest in  
16 property whether created or acquired prior or subsequent to August  
17 27, 1951, shall be subject to tax at the rates prescribed by  
18 sections 77-2004 to 77-2006, except property exempted by the  
19 provisions of Chapter 77, article 20, if it shall be transferred by  
20 deed, grant, sale, or gift, in trust or otherwise, and: (a) Made  
21 in contemplation of the death of the grantor; (b) intended to take  
22 effect in possession or enjoyment, after his or her death; (c) by  
23 reason of death, any person shall become beneficially entitled in  
24 possession or expectation to any property or income thereof; or (d)  
25 held as joint owners or joint tenants by the decedent and any other  
26 person in their joint names, except such part thereof as may be  
27 shown to have originally belonged to such other person and never to  
28 have been received or acquired by the latter from the decedent for

1 less than an adequate and full consideration in money or property,  
2 except that when such property or any part thereof, or part of the  
3 consideration with which such property was acquired, is shown to  
4 have been at any time acquired by such other person from the  
5 decedent for less than an adequate and full consideration in money  
6 or property, there shall be excepted only such part of the value of  
7 such property as is proportionate to the consideration furnished by  
8 such other person or, when any property has been acquired by gift,  
9 bequest, devise, or inheritance by the decedent and any other  
10 person as joint owners or joint tenants and their interests are not  
11 otherwise specified or fixed by law, then to the extent of the  
12 value of a fractional part to be determined by dividing the value  
13 of the property by the number of joint owners or joint tenants.

14 (2) For the purpose of subsection (1) of this section, if  
15 the decedent, within a period of three years ending with the date  
16 of his or her death, except in the case of a bona fide sale for an  
17 adequate and full consideration for money or money's worth,  
18 transferred an interest in property for which a federal gift tax  
19 return is required to be filed under the provisions of the Internal  
20 Revenue Code, such transfer shall be deemed to have been made in  
21 contemplation of death within the meaning of subsection (1) of this  
22 section; no such transfer made before such three-year period shall  
23 be treated as having been made in contemplation of death in any  
24 event.

25 Sec. 3. Section 77-2101.01, Reissue Revised Statutes of  
26 Nebraska, is amended to read:

27 77-2101.01. In addition to the inheritance taxes imposed  
28 by the laws of the State of Nebraska, there is levied and imposed

1 an estate or excise tax until January 1, 2007, upon the transfer of  
2 the estate of every resident decedent and upon the value of any  
3 interest in Nebraska real estate and tangible personal property  
4 situated in Nebraska of a nonresident decedent. The amount of such  
5 tax shall be the amount calculated in section 77-2101.03 reduced by  
6 the lesser of (1) the aggregate amount of all estate, inheritance,  
7 legacy, or succession taxes paid to any state or territory, the  
8 District of Columbia, or any possession of the United States in  
9 respect of any property subject to such tax or (2) the sum of (a)  
10 the amount determined by multiplying the amount calculated in  
11 section 77-2101.03 with respect to the taxable transfer by the  
12 percentage which the gross value of the transferred property not  
13 situated in Nebraska bears to the gross value of the transferred  
14 property and (b) the amount of Nebraska inheritance taxes paid.

15 Sec. 4. Section 77-2101.02, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17 77-2101.02. ~~There~~ Until January 1, 2007, there is hereby  
18 imposed a generation-skipping transfer tax upon the  
19 generation-skipping transfer or distribution of property of every  
20 resident of this state and upon the generation-skipping transfer of  
21 Nebraska real estate and tangible personal property situated in  
22 Nebraska by a nonresident. The amount of the generation-skipping  
23 transfer tax shall be the amount calculated in section 77-2101.03  
24 reduced by the lesser of (1) the aggregate amount of all transfer  
25 taxes paid to any state or territory, the District of Columbia, or  
26 any possession of the United States in respect of any property  
27 subject to the generation-skipping transfer tax or (2) the amount  
28 determined by multiplying the amount calculated in section

1 77-2101.03 with respect to the taxable transfer by the percentage  
2 which the gross value of the transferred property not situated in  
3 Nebraska bears to the gross value of the transferred property.

4           Sec. 5. Original sections 77-2001, 77-2002, 77-2101.01,  
5 and 77-2101.02, Reissue Revised Statutes of Nebraska, are repealed.